

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BARRY PERSHAN, VON K. McCONNELL
and GEORGE HASENAUER

Appeal No. 95-2050
Application 07/888,098¹

ON BRIEF

Before BARRETT, FLEMING and CARMICHAEL, ***Administrative Patent Judges.***

CARMICHAEL, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 1-29, which constitute all the claims remaining in the application.

¹ Application for patent filed May 26, 1992.

Claim 1 reads as follows:

1. In a communication network including a plurality of interconnected central office switching systems each at a different location, each of said central office switching systems connected to a plurality of local communication lines, a voice network portion comprising voice communication paths for interconnecting any of the central office switching systems, a common channel signaling network portion comprising signaling paths interconnecting said central office switching systems through at least one signal transfer point and at least one integrated services control point including a data base,

a method for simultaneously redirecting a plurality of call paths for telephone numbers corresponding to local communication lines at a first set of locations in pre-set groups to local communication lines at one or more second locations, comprising the steps of:

storing call redirection information concurrently for all of said telephone numbers in said data base;

setting a trigger in the network for each of said telephone numbers; and

redirecting a voice communication path between an originating call location and one of said second locations in accordance with redirection information accessed from said data base in response to a trigger corresponding to one of said telephone numbers.

The Examiner's Answer cites the following prior art:

Bicknell et al. (Bicknell)	4,754,479	June 28, 1988
Morganstein	5,029,196	July 2, 1991

Inbound/Outbound Magazine, November 1989, page 54, "The Case for Voice Recovery Services" by Mike Bush.

OPINION

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Claims 1 and 15

Claims 1 and 15 stand rejected under 35 U.S.C. § 103 as unpatentable over Bush.

The examiner finds that Bush discloses all of the recited steps, albeit in a communication network different than the communication network recited in the claim's preamble. According to the examiner, it would have been obvious to use Bush's method in the modern communication network recited in the preamble.

Appellants argue that there are additional differences, and that none of the differences are suggested by Bush.

We agree with the examiner.

As to the argued additional differences, we agree with the examiner that Bush suggests or implies a method for "simultaneously redirecting a plurality of call paths" because it was common knowledge that a given 800 number is likely to have more than one incoming call path. Moreover, this is implied by Bush's reference to Private Branch Exchanges at the alternate location. Column 2, lines 4-8. Each 800 number in Bush may constitute the recited "pre-set group." All of

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Bush's redirection information resides in storage at the same time and is thus "concurrently" stored. The recited step of "setting a trigger" is taught by Bush's description of alternate routings being activated. Claim 15's additional recitation, that the common data base is located at a control node remote from the first and second locations, is taught by Bush's drawing which shows that the database is remote from the primary 800 location and the alternate 800 location.

The sole difference, applying Bush's method to the recited communication network, was suggested by Bush. Bush teaches that his method is advantageously applied to "nearly all network backup strategies" including those affecting central office switching stations. Column 1, lines 14-17. Moreover, we find that it was common knowledge to consider applying methods that are established for older communications networks to new ones.

Thus, the rejection of claims 1 and 15 will be sustained.

Claims 2 and 16

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Claims 2 and 16 depend from claims 1 and 15 respectively and stand rejected under 35 U.S.C. § 103 as unpatentable over Bush. Bush's long distance carrier may be considered the recited "central office switching system" and thus renders obvious the claimed subject matter as discussed above. Moreover, Bush specifically suggests application to a "central office switching station." Column 1, lines 14-17.

Thus, the rejection of claims 2 and 16 will be sustained.

Claims 3 and 17

Claims 3 and 17 depend from claims 1 and 15 respectively and stand rejected under 35 U.S.C. § 103 as unpatentable over Bush. These claims additionally recite "concurrently transmitting redirection information for said plurality of telephone numbers for storage in said data base." We note that "said plurality" lacks antecedent basis and so provides little if any limitation additional to the independent claims. Moreover, we agree with the examiner that impliedly an artisan implementing Bush would transmit information concurrently.

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Thus, the rejection of claims 3 and 17 will be sustained.

Claims 4 and 18

Claims 4 and 18 depend from claims 3 and 17 respectively and stand rejected under 35 U.S.C. § 103 as unpatentable over Bush. These claims additionally recite that the "redirection information indicates a plurality of alternative destinations for at least one of said telephone numbers." We agree with the examiner that this is taught by Bush. Column 2, lines 9-16.

Thus, the rejection of claims 4 and 18 will be sustained.

Claims 5, 6, 19, and 20

Claims 5, 6, 19, and 20 additionally recite that the redirection information designates either an apportionment percentage or a time schedule for alternative destinations. The examiner states that these are matters of design choice. Appellants argue that "design choice" begs the question of obviousness and is an improper basis for rejecting these claims.

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We agree with appellants.

The mere fact that the prior art may be modified in the manner suggested by the examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992); ***In re Chu***, 66 F.3d 292, 298-99, 36 USPQ2d 1089, 1094-95 (Fed. Cir. 1995).

Because the examiner has not established that the prior art suggested the desirability of the modification, we will not sustain the rejections of claims 5, 6, 19, and 20.

Claim 7

Claim 7 falls together with claim 4 because appellants have presented no arguments for the separate patentability of claim 7. 37 CFR § 1.192. Had appellants made a separate argument, the examiner could have cited Morganstein, column 2, lines 3-6, for suggesting the recited feature.

Claims 8, 9, 21, and 22

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Claims 8, 9, 21, and 22 depend from claims 3, 8, 17, and 21 respectively and additionally recite updating the data base by selecting a different set of destinations for current operation. We fail to see how these recitations distinguish over Bush any more than the claims from which they depend. For the reasons presented above, the rejection of Claims 8, 9, 21, and 22 is sustained.

Claims 10 and 23

Claims 10 and 23 depend from claims 3 and 17 respectively and additionally recite establishment of a communication path to a processor in communication with either an integrated services control point or a control node. We find that Bush's disclosure of a "command routing database" implies such a processor.

The rejection of claims 10 and 23 is sustained.

Claims 11, 12, 24, and 25

Claims 11, 12, 24, and 25 fall with the claims from which they depend because appellants have presented no argument for separate patentability. 37 CFR § 1.192.

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The rejection of claims 11, 12, 24, and 25 is sustained.

Claims 13 and 26

Claims 13 and 26 depend from claims 1 and 15 respectively and specify that one of the telephone numbers is a virtual number. We agree with the examiner that Bush's 800 number is a virtual number and that even if it weren't, Bicknell suggests using a virtual number. Bicknell at Column 1, lines 13-52.

The rejection of claims 13 and 26 is sustained.

Claims 14 and 27

Claims 14 and 27 additionally recite providing a voice message or voice messaging information to a caller. We agree with the examiner that these features are suggested by Morganstein.

The rejection of claims 14 and 27 is sustained.

Claims 28 and 29

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Claims 28 and 29 fall with the claims from which they depend because appellants have presented no argument for separate patentability. 37 CFR § 1.192. Had appellants made separate arguments, the examiner could have pointed to portions of Morganstein suggesting the claimed invention.

The rejection of claims 28 and 29 is sustained.

CONCLUSION

The rejection of claims 1-4, 7-18, and 21-29 is sustained. The rejection of claims 5, 6, 19, and 20 is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR 1.136(a).

AFFIRMED-IN-PART

LEE E. BARRETT)	
Administrative Patent Judge)	
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MICHAEL R. FLEMING)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
JAMES T. CARMICHAEL)	
Administrative Patent Judge)	

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Lowe, Price, Leblanc & Becker
99 Canal Center Plaza, Suite 300
Alexandria, Virginia 22314